Simon v. Adzilla, Inc [New Media] et al Doc. 658 Att.

Exhibit B

Dockets.Justia.com

Sutton, Theresa A.

From: Michael Underhill [munderhill@BSFLLP.com]
Sent: Monday, November 10, 2008 2:36 PM
To: Chatterjee, I. Neel; Sutton, Theresa A.
Cc: David Barrett; Cooper, Monte; Greer, Yvonne; Dalton, Amy; Lincoln, Sean; Evan Parke
Subject: RE: letter to N. Chatterjee

Neel,

Thanks for your response. We oppose your submission to Judge Ware on both jurisdictional and substantive grounds. Based on your representations, we plan to defer making an emergency motion or petition with the Ninth Circuit, in the hope that Judge Ware's decision on your administrative motion will obviate that need. Please identify the "law" referenced in your email that causes you to conclude that the Founders are not lawful claimants. Thank you.

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Fax 202.237.6131
MUnderhill@BSFLLP.com

From: Chatterjee, I. Neel [mailto:nchatterjee@orrick.com]
Sent: Monday, November 10, 2008 12:02 PM
To: Michael Underhill; Sutton, Theresa A.
Cc: David Barrett; Cooper, Monte; Greer, Yvonne; Dalton, Amy; Lincoln, Sean
Subject: RE: letter to N. Chatterjee

Mike-

Thanks for the email. I have just returned to the office and am wading through the various things that have happened during my absence.

Your request appears to be another attempt to obtain relief that the Court has thrice rejected. If you have authority supporting your position that a) Orrick must to do more than the Order requires and b) Messrs. Winklevoss and Narendra are "lawful claimants," please forward it to us for consideration. Absent such authority, we see no reason to respond to your demands immediately and we will consider your request when and if we deem it appropriate at a later time. From our read of the Judge's order and the law, the ConnectU Founders are not lawful claimants.

Judge Ware's orders raise two issues which, in our view need to be addressed. First, Judge Ware incorrectly stated in his order that the ConnectU Founders opposed the motion to enforce. They did not, but rather incorrectly sought to intervene later in the proceedings despite having had notice of the proceedings, having submitted to the jurisdiction, and having chosen not to oppose the motion. Second, we appear to dispute what Judge Ware's order means as to "lawful claimants." We believe the correct course of action is to file miscellaneous administrative requests to clarify and correct the Court orders. We will be prepared to file our miscellaneous administrative requests today. The rules say we must meet and confer on these issues prior to filing our motion. My sense from your communications is that you disagree with both of the points I raise. If you think further meeting and conferring is necessary and we can reach agreement on either of these points, please let us know. As we are plan to seek clarification from the District Court, it does seem to us that there is no need yet another "emergent motion" from ConnectU and the ConnectU Founders.

Regards,

Neel

From: Michael Underhill [mailto:munderhill@BSFLLP.com]
Sent: Monday, November 10, 2008 8:47 AM
To: Sutton, Theresa A.; Chatterjee, I. Neel
Cc: David Barrett; Cooper, Monte; Greer, Yvonne; Dalton, Amy
Subject: RE: letter to N. Chatterjee
Importance: High

Neel,

We did not to hear from you or any of your colleagues on Friday concerning our inquiry below as to your intentions with respect to the ConnectU stock transfer ordered by the Court's November 3, 2008 judgment. In light of the Ninth Circuit's closure tomorrow, we request your response today by noon PST, so that we can file an emergency motion today, if necessary. Thank you.

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From: Michael Underhill
Sent: Thursday, November 06, 2008 2:48 PM
To: 'Sutton, Theresa A.'; Chatterjee, I. Neel
Cc: David Barrett; Cooper, Monte; Greer, Yvonne; Dalton, Amy
Subject: RE: letter to N. Chatterjee

Thank you for that information, Theresa.

In Neel's absence, please refer it to another lawyer for response, and/or make sure that Neel receives it today so that he can direct a timely response. Thank you. Mike

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From: Sutton, Theresa A. [mailto:tsutton@orrick.com]
Sent: Thursday, November 06, 2008 2:43 PM
To: Michael Underhill; Chatterjee, I. Neel
Cc: David Barrett; Cooper, Monte; Greer, Yvonne; Dalton, Amy
Subject: RE: letter to N. Chatterjee

Mike-

Neel is out of the office until Monday. As a result, please do not expect a response from him as your letter demands.

Theresa

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ORRICK

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From: Michael Underhill [mailto:munderhill@BSFLLP.com]
Sent: Thursday, November 06, 2008 11:34 AM
To: Chatterjee, I. Neel
Cc: Sutton, Theresa A.; David Barrett
Subject: letter to N. Chatterjee
Importance: High

Attached is a letter regarding Judge Ware's most recent ruling

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[v.1]

"EMF <orrick.com>" made the following annotations.

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